

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD MEZA,
Petitioner,
v.
CHRISTIAN PFEIFFER, Warden,
Respondent.

No. 2:20-cv-2316-DAD-CSK (HC)

ORDER VACATING COURT'S PRIOR
ORDER, GRANTING PETITIONER'S
MOTION FOR AN EXTENSION OF TIME
TO FILE OBJECTIONS, AND CONSTRUING
PETITIONER'S MOTION TO VACATE
JUDGMENT AS OBJECTIONS

(Doc. Nos. 53, 54)

Petitioner is a state prisoner proceeding *pro se*. On September 5, 2024, the undersigned adopted the August 13, 2024 findings and recommendations, noting that no objections had been filed. (Doc. No. 52 at 1.) On September 9, 2024, petitioner filed a motion for an extension of time to file objections. (Doc. No. 53.) The motion was accompanied by a proof of service reflecting petitioner attesting to service of his motion on August 27, 2024. (*Id.* at 7.) Under the mailbox rule, petitioner's motion for an extension of time was mailed before the time for the filing of objections had expired, and therefore was timely filed. *Houston v. Lack*, 487 U.S. 266, 275–76 (1988) (holding that a *pro se* prisoner filing is dated from the date that the prisoner delivers it to prison authorities for mailing).

In the meantime, petitioner filed a second motion to vacate the judgment. (Doc. No. 54.) Because petitioner timely sought leave to file objections, the court will vacate its September 5, 2024 order adopting the August 13, 2024 findings and recommendations, and finds that

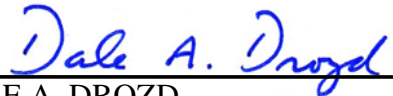
petitioner's subsequently filed motion to vacate the judgment is unnecessary. Instead, the court will construe petitioner's subsequent motion (Doc. No. 54) as his objections to the findings and recommendations (Doc. No. 51). The Clerk of the Court will be directed to edit the docket entry to reflect such construction, and respondent will be granted fourteen days from the date of entry of this order to file any reply to petitioner's objections.

Accordingly:

1. The September 5, 2024 order (Doc. No. 52) is vacated;
2. Petitioner's motion for an extension of time to file objections (Doc. No. 53) is granted;
3. Petitioner's motion to vacate judgment (Doc. No. 54) is hereby construed as petitioner's objections to the findings and recommendations (Doc. No. 51), and the Clerk of the Court is directed to edit the docket entry pursuant to this order; and
4. Respondent shall have fourteen (14) days from the date of entry of this order to file any reply to petitioner's objections.

IT IS SO ORDERED.

Dated: October 23, 2024



DALE A. DROZD
UNITED STATES DISTRICT JUDGE